

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.07.2019

CORAM

THE HON'BLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.3074 of 2008
and M.P.No.1 of 2008

National Insurance Company Ltd,
Hosur Branch, By-pass Road,
Hosur Town.2nd Respondent/Appellant

Vs

1.Ismail Sahib ...Petitioner/Respondent

2.G.Mani1st Respondent/Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988, against the judgement and decree dated 23.01.2006 passed in M.C.O.P.No.46 of 2002, on the file of Motor Accidents Claims Tribunal, Sub-Court, Hosur.

For Appellant : Mr.D.Bhaskaran

For R1 : No Appearance

J U D G M E N T

This appeal is preferred by the Insurance Company as against the award of a sum of Rs.1,10,000/- towards compensation to the first respondent / claimant due to the injuries sustained by him in a motor vehicle accident.

2.The case in brief, is as follows:

On the fateful day, ie. on 28.10.2001, at about 8.10 a.m., the first respondent / injured was travelling in the bus bearing Registration No.TN-29-Y-3799 on the Denkanikottai - Kelamangalam Road. When the bus was nearing St.Joseph Convent School, due to the rash and negligent driving of the driver of the said bus, it dashed against a Transformer. Due to the said impact, the first respondent sustained grievous injuries on his nose, ear and the left side of the chest. The first respondent filed a claim petition before the Tribunal. On consideration of the materials

and evidence available on record, the Tribunal awarded a total compensation of Rs.1,10,000/- with interest at the rate of 7.5% per annum from the date of petition.

3.Challenging the same, the appellant / Insurance Company has filed the present Civil Miscellaneous Appeal.

4.The learned counsel for the appellant has submitted that the Tribunal has erred in coming to the conclusion that the bus driver had caused the accident, in the absence of any substantial proof to that effect. He further submitted that the compensation awarded by the Tribunal is excessive and exorbitant.

5.Heard the learned counsel for the appellant and perused the materials available on record carefully and meticulously.

6.Despite the service of notice and the name of the first respondent having been printed in the cause list, there is no representation on his behalf.

7.The first respondent was examined as P.W.1, who deposed before the Tribunal that the accident had occurred only due to the rash and negligent driving of the driver of the bus. Ex.P1-First Information Report also denotes the same. Further, it is seen that the Insurance Company has not filed any documents or let in any evidence to disprove the deposition of P.W.1. In these circumstances, the Tribunal came to the conclusion that the accident had occurred only due to the rash and negligent driving of the driver of the bus, which factual finding this Court is not inclined to interfere.

8.With regard to the quantum of compensation, the Tribunal has taken note of Ex.P2-Wound Certificate issued by the Government Hospital, Denkanikottai and Ex.P4-Medical bills and awarded a sum of Rs.80,000/- towards pain and suffering, Rs.20,000/- towards loss of future earning capacity, Rs.5,500/- towards medical expenses as per Ex.P4 which is an actual expenditure and Rs.4,500/- towards extra nourishment and transportation. The amounts awarded by the Tribunal under the above heads, are in consonance with the injuries suffered by the claimant and are also just and reasonable and hence, the same need not be interfered with by this Court.

9.In the result, the Civil Miscellaneous Appeal stands dismissed. Consequently, connected Miscellaneous Petition is closed. No costs. The appellant-Insurance Company is directed to deposit the entire compensation amount, with interest and costs, as ordered by the Tribunal, less the amount already deposited,

if any, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the first respondent / claimant is permitted to withdraw the same on making proper application before the Tribunal.

Sd/-

Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

gbi / srk

To

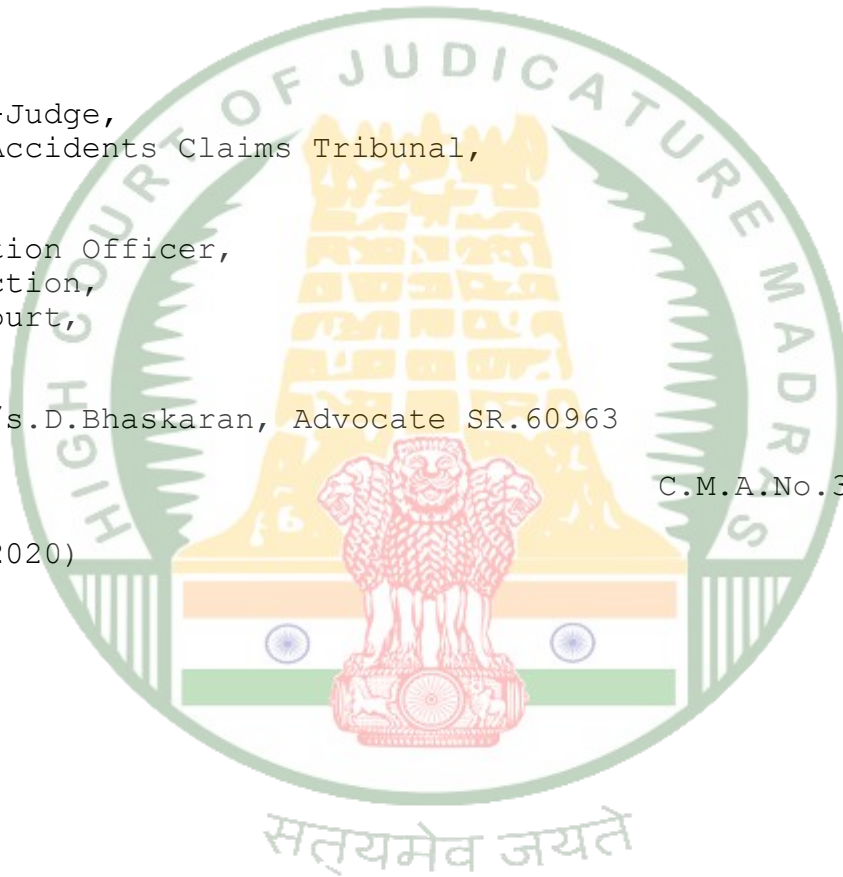
1.The Sub-Judge,
Motor Accidents Claims Tribunal,
Hosur.

2.The Section Officer,
V.R.Section,
High Court,
Madras.

+1cc to M/s.D.Bhaskaran, Advocate SR.60963

C.M.A.No.3074 of 2008

RP (CO)
CB (03/09/2020)



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